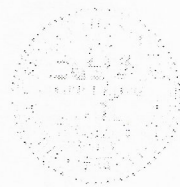


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July 3, 2019

Kevin Balkwill  
Disciplinary Counsel  
Board of Professional Responsibility of the Supreme Court of Tennessee  
10 Cadillac Drive, Suite 220  
Brentwood, TN 37027

Re: Craig Northcott  
File Nos. 60970-4-KB & 61031-4-KB

Dear Mr. Balkwill:

As indicated in my attorney's letter, I wanted to address some aspects of the two incidents you are investigating in my own words.

First, as to my Facebook posting, it has been reported that I wrote there that I believe that only Christians have Constitutionally-protected rights. This could not be further from the truth. I have never believed this nor will I ever believe this. On Facebook, I took issue with a local Republican leader who maintained that rights are created by man and specifically our Constitution. What I was attempting to state, repeatedly, in that interaction on Facebook is similar to what I said while campaigning for my position — I believe that rights are bestowed upon us from the God of the Bible. This is what is stated in the Declaration of Independence when it says "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." In one of my comments, which was not included in the materials provided by those filing these complaints against me, I stressed that my belief does not mean that those who don't hold my beliefs don't have Constitutional rights:

As I stated before and as our Founding Fathers asserted in the Declaration of Independence to be self-evident, our rights come from God and our government is created to protect them. Among those rights given to us by God is the freedom of religion. The Founders explained this further and clearly through the First Amendment to the US Constitution. The one true Creator God of the Bible is a just, righteous, gracious and sovereign God. As such, He does not force anyone to worship or serve

him. Instead, He gave each person personal volition accompanied with personal responsibility for those decisions including the decision as to whether to worship Him. So, yes, freedom of religion does come from God even when that freedom results in rejecting Him.

As to the second part of your question as to whether I defend that right, I am compelled to once again point out the bait and switch that you are attempting to pull. This thread was never about freedom of religion until you found yourself in a corner and apparently felt that the only way out was to imply that I was against freedom of religion. I never stated that and was never discussing that in this thread. Yes, I defend the right to freedom of religion. It is very important to me personally. I defend it for those who reject the Truth of God's Word.

I never asserted that only those who agree with my religious position have Constitutionally protected rights. I have consistently performed my job in a way that fights for the rights of all no matter their personal and/or religious beliefs. To date, no one has ever shown me one instance where I or anyone in my office has failed to do so. The concerns of those who filed these complaints are misplaced and unfounded in this area.

The second issue relates to a short portion of a much longer presentation I made in a church in Houston, Texas in March 2018 where I answered a question from the audience. I believe that the context of those remarks is important. I was a speaker at a Bible conference sponsored by Chafer Theological Seminary which is primarily for pastors. I taught for approximately 45 minutes on the subject of the local church's role in government. This was a Biblical evaluation of the Christian's role in our governmental process. After my prepared remarks, the floor was opened for questions. I responded to questions for about another thirty (30) minutes. I have the entire video if your office believes it necessary to view it. One of the audience questions dealt with the issue of how government officials should handle homosexual marriage. I spoke extemporaneously on this for about 4 minutes. I used the example of domestic violence laws as to how this uncertainty in the law caused by what I believe is an overreach by the U.S. Supreme Court in its 2015 Obergefell decision has impacted many areas that most would not consider. I simply expressed what the Chief Justice of the U.S. Supreme Court and three (3) of his fellow justices expressed in their dissenting opinions. My answer to the audience question and my use of a hypothetical domestic violence situation that could arise as an example was never intended to be a full exposition of domestic violence laws in Tennessee, or anywhere else in the country, nor a thorough explanation of how my office handles them.

I find myself in a position of balancing many different issues in finding the appropriate way to exercise my prosecutorial discretion in the handling of domestic violence cases as it relates to homosexual relationships. It rarely comes up in Coffee County, but I do not believe there is an



easy answer or one correct way to approach it. I have a strongly held religious belief that homosexuality is a sin. As such, I have a strongly held belief that I must not do anything that will either condone, promote, or suggest that I agree with such behavior. This is a belief that is shared by the vast majority of Tennesseans and, more specifically, the citizens of the 14<sup>th</sup> Judicial District that I serve. I know this because the Tennessee Constitution was amended in 2005 to so state this position. (Tenn. Const. art. XI, § 18.) Ten years earlier our General Assembly had codified this view as a matter of public policy in Tenn. Code Ann. § 36-3-113.

I am aware that the U.S. Supreme Court opinion referenced above declared this statute unconstitutional to the extent it denies government licensing of homosexual marriage. However, it does not negate the clearly established public policy of this State that was made part of our Constitution a decade later.

Thus, whenever an issue on this topic may arise, as a duly elected District Attorney, I find myself in a position of balancing interests, including not just my religious beliefs but the public policy of Tennessee. The definition of Domestic Assault in Tennessee is set out in Tenn. Code Ann. § 39-13-111. It is a Class A misdemeanor but can be elevated to a Class E felony if you have been convicted of two (2) or more offenses that would qualify as Domestic Assault and involves bodily injury.

I believe that the overall purpose of treating domestic violence cases separately from other assaults is to promote and protect the sanctity of the institutions of marriage and family. Because that is the purpose, I do not believe it is good policy to use the Domestic Assault statute in situations that don't involve a marital or familial type relationship recognized by this State. As a general policy, I would not prosecute someone, for example, that assaulted their college roommate for Domestic Assault. I would use my prosecutorial discretion to treat that as a simple assault even though it technically qualifies as a Domestic Assault.

The Constitutionally and statutorily established law and policy in Tennessee is that marriage is between one man and one woman. I personally believe that marriage is a contract between one man, one woman, and God. It matters not whether they have formalized this with the government. Accordingly, I do prosecute those cases in which a man and a woman have been in an intimate relationship but not formally married in the sight of the government as domestic assault. I do not delve into their commitment to one another as I do not believe it is my place to do so. I assume that two adults who live together that are of the opposite gender are involved in a marital-type relationship absent some other relationship that suggests otherwise. If I have any doubt that an intimate relationship exists, I do not prosecute as a domestic assault. I assume that two people who are of the same gender and live together are not engaged in an intimate relationship. I do not believe that they desire me to delve into what they do together nor do I believe that is my role. Thus, I generally prosecute assaults between two people of the same gender as a simple assault absent some sort of



parent-child or grandparent-grandchild type of relationship. Accordingly, to avoid appearing to punish those that openly or otherwise engage in homosexual activity differently than those who don't, I decided to treat these cases as I would any other situation in which two people of the same gender are involved in an assault – prosecuting the crime as a Class A misdemeanor Assault. This position was not taken to demean the defendant, the victim, or anyone else. In fact, my intent was in part to honor what I know has been the desire of the LGBTQ community – keeping the government out of their bedrooms.

In implementing this discretionary prosecutorial decision, I make sure that all reasonable pre-trial release conditions are maintained and/or requested. I make sure the appropriate measure of jail time is requested based upon criminal history and especially past violent history. I make sure that we take into account the victim's wishes and the strength of our proof. I specifically tell my staff that they are to take no action that would knowingly put any victim at a greater risk of harm. I make sure that we request all appropriate safeguards for any alternative sentencing including no-contact provisions and anger management classes. I make sure the victim is informed of all available victim resources in or near our community including those provided by my office and assist the victim in availing themselves of those resources if requested. I make sure to notify the defendant that their right to possess and/or purchase a firearm will likely be forfeited upon their conviction due to other Tennessee law and federal laws which look at whether the facts qualify as a domestic assault regardless of the title of the crime for which they were actually convicted. All victims are afforded the same protection under the law as it relates to bond conditions and resolution of the case regardless of their sexual orientation. In short, there is no meaningful difference in our approach to these cases nor the outcomes that we pursue for the victims.

I stress the importance within my office of pursuing justice in all cases within the bounds of the law by exercising appropriate prosecutorial discretion. I also emphasize the importance of treating all victims, defendants, witnesses and others with whom we interact with dignity, respect and honesty. I have repeatedly told my staff that I have only one rule in this office and that is to do the right thing in all situations. All other rules are meant to be guidelines to follow in order to comply with the above rule. We are to judge each situation by its unique facts and circumstances and act accordingly. There are certainly circumstances that can occur that do not neatly fall into the basic fact pattern of most cases that we see for any given criminal statute. In fact, there are examples that can readily be given that don't fall into the broad categories that I have described above. Accordingly, if they believe that a guideline is interfering with their ability to do the right thing and are unsure as to what to do, they are to bring that situation to me so that we can discuss how to best approach the case. In fact, since the wave of publicity created by reporting about the video of my remarks, there has been one instance where a member of my staff felt very strongly that a recent incident involving assault between two individuals of the same gender needed to be prosecuted as a

domestic assault and I deferred to their view on that matter since they were able to tell me that they considered it to be what had to be done to do the right thing in that situation.

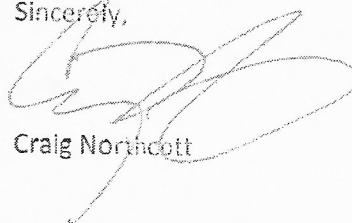
I believe that my record speaks for itself. I have never had anyone complain to me that they were mistreated on the basis of their religious beliefs or sexual orientation. I have never had a defense attorney tell me that I was mistreating their client based on their religious beliefs or sexual orientation. I have never had a victim state that I was disrespectful to them or mistreated them due to their religious beliefs or sexual orientation. I have never had anyone complain to me that I have ever wrongfully brought charges against someone or otherwise abused my authority on the basis of someone's religious beliefs or sexual orientation. I have now been under a microscope for over a month and not one single person has come forward with any information about any misconduct on my part despite a very public media request for people to come forward and provide such. Simply put, I have comported myself with integrity in the manner in which I have handled the thousands of cases that have come through my office in the last five (5) years. I have not violated any Tennessee Rule of Professional Conduct and the complaints that have been filed against me are solely based upon differences in political and theological positions.

Finally, I have held these religious positions openly for many years prior to being elected in 2014 and prominently made my religious beliefs clear in my campaign. I included a Bible verse, Micah 6:8, on most of my campaign materials. I had volunteers who phone-banked for me use scripted materials that included the explanation that I believe "we need to return to our Biblical foundation in order to truly understand the Constitution allowing us to bring justice to our criminals while protecting each of our rights." I also provided those volunteers with "canned" answers to likely questions from potential voters including one that said you "Cannot understand the Constitution without understanding the Bible because the Constitution was written to protect the principles contained in the Bible." I made the fact that I am a Christian and will rely on my Biblical viewpoint in making decisions in how I do my job well known. I believe I was elected *because* of that.

I am a Christian. I am not ashamed of nor do I apologize for my beliefs. Because of my faith, I endeavor to treat all people with respect and dignity since all people are God's image bearers and we all sin and come short of the glory of God. Through the atoning work of Christ on the cross, we are extended salvation from the due penalty of those sins if we simply place our faith in Christ's work. I will continue to exercise my God given rights to freedom of religion and speech.

I look forward to continuing to serve this community to the best of my ability in each situation that comes to this office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Craig Northcott', with a large, sweeping flourish extending from the end of the signature.

Craig Northcott